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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,390	01/19/2000	David M. Tumey	06 2916.001	4399

7590 01/30/2004

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EXAMINER	
BALI, VIKKRAM	
ART UNIT	**PAPER NUMBER**
2623	

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/488,390	TUMEY ET AL.	
	Examiner	Art Unit	
	Vikkram Bali	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

In response to the amendment filled on 10/15/2003, all the amendment have been entered and the action follows:

1. Applicant's arguments, see pages 8-10, filed 10/15/2003, with respect to the rejection(s)of claim(s) 1-16 under 35 USC 112, 35 USC 102 AND 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found art.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 8-10, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya et al (US 6175772).

With respect to claim 1, Kamiya discloses an entertainment device (see figure 1) that is capable of providing entertaining interactions (see col. 3, lines 62-66); an acquisition device...to acquire a representation of a facial characteristics of an object...and adapted to produce a signal, (see figure 3, numerical 2 a camera for taking pictures of the individual and the surrounding see col. 4, lines 15-17 and col. 6, lines 2-5; a processor associated with ...and to provide an out put signal indicative of recognition, (see figure 3, numerical 20, and col. 4, lines 10-21 and col. 4, lines 48-59) and entertainment device provides said entertaining interaction in response to said output signal indicative of recognition, (see figure 3, the expression display information i.e. words, whispering sound effects and motion given by the robot) as claimed. However, he did not disclose the processor being adapted to compare the produced signal relative to data stored in memory, as claimed. But, Kamiya does incorporate a neural network for the purpose of recognition of the input signal (see figure 6) in order to produce the output signal indicative of recognition (see col. 6, lines 23-35), and it is obvious to one ordinary skilled in the art that the neural network does contain a

memory. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to take the neural network as disclose by the Kamiya for the recognition, as it is customary in the art.

With respect to claim 2, he further discloses the entertainment device is a toy, (see col. 16, lines 26-30) as claimed.

Claims 8, 9 and 11 are rejected for the same reasons as set forth for the rejection of claim 1, because claims 8, 9 and 11 are claiming subject matter similar to claim 1 and the subject matter is also described in the rejection of claim 1.

With respect to claim 10, he further disclose, processor utilizes an artificial intelligence (see figure 6 the neural network as employed by the processor for comparing the signal representations) as claimed.

Claim 12 is rejected for the same reasons as set forth for the rejection of claim 2, because claim 12 is claiming subject matter similar to claim 2.

With respect to claims 13-15, he further disclose, sound controls and the sound control toys having the speech synthesizer (see figure 3, numerical 8, acoustic detection means, the col. 4, lines 35-38 for microphone installation on the toy, for voice or speech detection in the proximity of toy, col. 5, lines 5-7 sound voice detection unit, and finally

the toy acts or interacts per the user emotions i.e. the signal indicative of the human speech that is processed by the processor 20 of the figure 3, as the sound effects see figure 3 "SOUND EFFECTS" as the output of the 1 i.e. toy) as claimed.

With respect to claim 16, it is well known to use software in the CPU having the email provision. Therefore, at the time of invention, for an ordinary skilled in the art, it is obvious to combine the well-known feature of email provision in the CPU, to get and send out the information regarding the games.

4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya in view of Diamond et al (US 5314336).

With respect to claim 3, Kamiya discloses the invention substantially as disclose and as describe above in claim 2. However, he fails to disclose the toy device is a doll, and the acquisition device is mounted to the doll, as claimed. Diamond discloses a doll and the acquisition device are mounted to the doll, (see the figure 1, the doll and the figure 4, the numerical 45 detector is on the doll) that recognizes the marked.

It would have been obvious to one ordinary skilled in the art at the time of invention to combine the entertainment object controlling operation by Kamiya and the teaching of Diamond of having a doll with a detector as a toy that recognizes the marking by simply replacing the robot shape to a doll. The suggestion is given by the Kamiya (see col. 16, lines 26-29, the robot being a toy) the toy could be a doll.

With respect to claim 4, Diamond further teaches the toy is a doll, (see figure 1, the doll) and the acquisition device see what's in front of eye, (see figure 4). And, Kamiya further discloses that the acquisition device is a camera (see figure 3, numerical 2).

With respect to claim 5, the processor as being placed in the dolls head is just the design choice depending upon the toys size and structure of processor. Therefore, it would have been obvious to one ordinary skilled in the art at the time of invention to simply put the or installed the processor at a suitable place depending upon the size of the doll and the processor.

With respect to claim 6, Diamond further teaches the toy is a doll, (see figure 1, the doll) and the acquisition device see what's in front of eye, (see figure 4). And, Kamiya further discloses that the acquisition device is a camera (see figure 3, numerical 2). And, it is well known in the art that the doll could very well be the Barbie, Mickey, Teddy, Pokeman, Tom, Jerry, Barnie, Bob or like. Therefore, it is obvious to one ordinary skilled in the art at the time of invention to take any one of the dolls as the preference of the kids at the time.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya in view of Black et al (US 5802220).

With respect to claim 7, Kamiya discloses the invention substantially as disclose and as describe above in claim 1. However, he fails to disclose the entertainment device is a video game, as claimed. Black in tracking facial motion through a sequence

of images teaches a video game "entertainment device" that incorporate the facial recognition system.

Therefore, one ordinary skilled in the art at the time of invention can simply utilize the facial recognition of Kamiya system and use that into the video games a suggested by the Black (see col. 28 lines 58-70) as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.0377.

Vikkram Bali
Examiner
Art Unit 2623

vb
December 17, 2003